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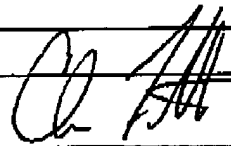
AUG 31 2005

PAT. PTO/SB/21 (04-04)

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	09/808,706
	Filing Date	March 14, 2001
	First Named Inventor	McMillan
	Art Unit	1634
	Examiner Name	Switzer, J. C.
	Attorney Docket Number	020048-003320US
Total Number of Pages in This Submission	5	

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Communication (2 pages) <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b)
Remarks: The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Townsend and Townsend and Crew LLP Chun-Pok Leung	
Signature		
Date	August 31, 2005	

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, Fax No. (703) 872-9306 on August 31, 2005.		
Typed or printed name	Christopher R. Fitting	
Signature		Date August 31, 2005

80576419 v1

Effective on 12/08/2004,  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 200.00)

### Complete If Known

Application Number 09/808,706  
Filing Date March 14, 2001  
First Named Inventor McMillan  
Examiner Name Switzer, J. C.  
Art Unit 1634  
Attorney Docket No. 020048-003320US

SEP -7 2005  
US PATENT & TRADEMARK  
OFFICE

### METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):  
☒ Deposit Account Deposit Account Number: 20-1430 Deposit Account Name: Townsend and Townsend and Crew LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

#### 2. EXCESS CLAIM FEES

Fee Description	Small Entity	Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
-20 or HP =	x	\$	\$0			
HP = highest number of total claims paid for, if greater than 20						
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)			
-3 or HP =	x	\$	\$0			
HP = highest number of independent claims paid for, if greater than 3						

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
-100 =	/ 50 =	(round up to a whole number) x		

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Application for Patent Term Adjustment Under 37 CFR § 1.705(b)

Fees Paid (\$)

200.00

### SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 41,405	Telephone (650) 326-2400
Name (Print/Type)	Chun-Pok Leung		Date August 31, 2005

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PAGE 2/3 \* RCVD AT 8/31/2005 7:31:43 PM [Eastern Daylight Time] \* SVR:USPTO-EFXXF-6/0 \* DNIS:8729306 \* CSID:650 326 2422 \* DURATION (mm-ss):01-18

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Fax No. 1-703-872-9306 on August 31, 2005.

PATENT  
Docket No.: 020048-003320US

TOWNSEND and TOWNSEND and CREW LLP

US PATENT & TRADEMARK  
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By: \_\_\_\_\_

Christopher R. Fitting

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 13 2005  
OFFICE OF PETITIONS

In re application of:

McMillan et al.

Application No.: 09/808,706

Filed: March 14, 2001

For: METHOD FOR QUANTITATIVE  
ANALYSIS OF A NUCLEIC ACID  
AMPLIFICATION REACTION

Examiner: Juliet Caroline Switzer

Art Unit: 1634

APPLICATION FOR PATENT TERM

ADJUSTMENT UNDER

37 C.F.R. § 1.705(b)

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants are in receipt of the *Notice of Allowance and Determination of Patent Term Adjustment under 35 U.S.C. 154(b)* mailed January 25, 2005. The Patent Office has determined that the Patent Term Adjustment to day is 0 days. In accordance with 37 C.F.R. § 1.705(b), the Applicants respectfully request reconsideration of the patent term adjustment.

**Statement Of Facts - 37 C.F.R. § 1.705(b)(2)**

**(i) Correct Patent Term Adjustment and Basis Under 37 C.F.R. §1.703**

The Applicants respectfully submit that the correct patent term adjustment is 354 days. This determination is due, in part, to the mailing of the second Office Action later than

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four months after the filing of the response to the first office action (Restriction Requirement)  
per 37 C.F.R. §1.703(a)(3).

(ii) **Relevant Dates for which an Adjustment is Sought under 37 C.F.R. §1.703(a)(3).**

Date of Response to Restriction Requirement	June 7, 2002
Four Months from Response	October 7, 2002
Date of Mailing of Second Office Action	February 13, 2003
Days in excess of Four Months	129
Date of filing of Application	March 14, 2001
Date of Issuance of Patent	June 28, 2005
Days in excess of Three Years	471
Total USPTO delays	600

**Applicant delays:**

First Office Action Mailed	February 13, 2003
Response to First Office Action Mailed	August 15, 2003
Days in excess of Three Months	94
Second Office Action Mailed	November 19, 2003
Response to Second Office Action Mailed	May 21, 2004
Days in excess of Three Months	92
Final Office Action Mailed	July 23, 2004
Response to Final Office Action Mailed	December 22, 2004
Days in excess of Three Months	60
Total Applicant delays	246

The USPTO delays (600) minus the Applicant delays (246) equals the correct patent term  
adjustment of 354 days.

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CONCLUSION

The Applicants respectfully requests reconsideration of the patent term adjustment of 0 days indicated on the *Determination of Patent Term Adjustment under 35 U.S.C. 1.54(b)* to 354 days, as discussed above.

The Commissioner is hereby authorized to charge the fee of \$200.00 for filing an Application for Patent Term Adjustment as set forth in § 1.18(e), and any other fees which may be required, or credit any overpayment, to Deposit Account No. 20-1430.

Respectfully submitted,



Chun-Pok Leung  
Reg. No. 41,405

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